

**IN THE COURT OF CRIMINAL APPEALS  
OF THE STATE OF OKLAHOMA**

FILED

IN COURT OF CRIMINAL APPEALS  
STATE OF OKLAHOMA

DEC 26 2018

WILLIAM FRANKLIN LAFOON,

JOHN D. HADDEN  
CLERK

Petitioner,

v.

No. PC 2018-0944

WAGONER COUNTY, OKLAHOMA  
FILED  
IN DISTRICT COURT

STATE OF OKLAHOMA,

DEC 28 2018

Respondent.

JAMES E. HIGH  
COURT CLERK

**ORDER AFFIRMING DENIAL OF APPLICATION  
FOR POST-CONVICTION RELIEF**

Petitioner, *pro se*, appeals to this Court from an order of the District Court of Wagoner County denying his application for post-conviction relief in Case No. CF-2010-153. The record reflects Petitioner entered a plea of guilty to Count 1 – Domestic Assault and Battery, Count 2 – Assault and Battery with a Dangerous Weapon, Count 3 – Kidnapping and Count 4 – Rape First Degree. He was sentenced on May 27, 2011, to life imprisonment on Count 1, fifty years on Count 2, seventy-five years on Count 3, and life without parole on Count 4. The sentences were ordered to be served consecutively.

Petitioner did not timely seek to withdraw his plea and thus failed to perfect a direct appeal from his Judgment and Sentence. In

Petitioner's post-conviction application in the District Court and on post-conviction appeal, Petitioner raises the sole issue that the State of Oklahoma lacked jurisdiction to prosecute him because the federal government has exclusive jurisdiction to prosecute crimes against persons committed by Indians in "Indian Country."

In an order filed August 21, 2018, the Honorable Dennis N. Shook, District Judge, denied Petitioner's post-conviction application. Judge Shook found the United States Court of Appeals for the Tenth Circuit has stayed all proceedings in *Murphy v. Royal*, 866 F.3d 1164 (10<sup>th</sup>Cir.2017), and no further action will be taken until a final decision has been made by the United States Supreme Court. We agree.

The Tenth Circuit order issued November 16, 2017, in *Murphy* granted the unopposed motion to stay the mandate pending the filing of a Petition for Writ of *Certiorari* in the United States Supreme Court. Mandate was stayed for ninety days and/or until the deadline passed for filing a *certiorari* petition in the Supreme Court. If the *certiorari* petition was filed, the Tenth Circuit ordered that the stay would continue until the Supreme Court's final disposition. As a petition for a writ of *certiorari* was filed in the United States Supreme Court on February 6, 2018, the matter is, therefore, stayed until the Supreme

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Court's final disposition. Petitioner's post-conviction application based upon the Tenth Circuit's holding in *Murphy* is premature.

As Petitioner has failed to establish he is entitled to post-conviction relief, the order of the District Court of Wagoner County denying Petitioner's application for post-conviction relief is **AFFIRMED**. Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2018), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

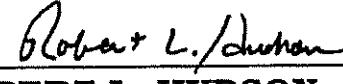
**IT IS SO ORDERED.**

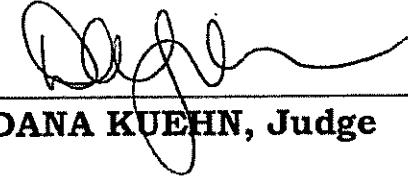
**WITNESS OUR HANDS AND THE SEAL OF THIS COURT** this

26<sup>th</sup> day of December, 20<sup>18</sup>.

  
**GARY L. LUMPKIN, Presiding Judge**

  
**DAVID B. LEWIS, Vice Presiding Judge**

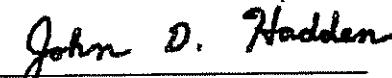
  
**ROBERT L. HUDSON, Judge**

  
**DANA KUEHN, Judge**

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Scott Rowland  
**SCOTT ROWLAND, Judge**

ATTEST:

  
John D. Hadden  
Clerk  
OA

I, John D. Hadden, Clerk of the Appellate Courts of the State of Oklahoma do hereby certify that the above and foregoing is a full, true and complete copy of the Order affirming denial of ~~order affirming denial of~~ GPP, for post-conviction relief in the above entitled cause, at the same remitter, to my office.

In Witness Whereof I hereunto set my hand and affix the Seal of said Court at Oklahoma City, this 210th day of December 2018.

By Cynthia Hanchbaum  
DEPUTY